



Burl Cain
Commissioner

INVITATION FOR BIDS
IFB RFx Number: 3160004471

**GUARD SERVICE FOR OUTPATIENT CLINIC/HOSPITAL VISITS
AND HOSPITALIZATION OF STATE INMATES**

Issue Date: Monday, November 29, 2021

CLOSING TIME AND DATE

Bids must be received by:
2:00 p.m., CST, Wednesday, January 5, 2022

CLOSING LOCATION

Mississippi Department of Corrections
301 North Lamar Street
Jackson, MS 39201

BID COORDINATOR

Kimbley Hendrix
Telephone: 601-359-5600
E-mail: procurement@mdoc.state.ms.us

GENERAL INSTRUCTIONS

Section 1 – Background, Authority, and Purpose

Background: Within the State of Mississippi, the Mississippi Department of Corrections (“MDOC”) is comprised of five (5) State-run facilities: Mississippi State Penitentiary (MSP), Parchman, MS, Central Mississippi Correctional Facility (CMCF) and Youth Offender Unit (YOU), Pearl, MS, South Mississippi Correctional Institute (SMCI), Leakesville, MS, Marshall County Correctional Facility (MCCF), Holly Springs, MS and Walnut Grove Correction Facility, Walnut Grove, MS; eight (8) Community Work Centers (CWC); two (2) Pre-Release (Restitution) Centers; two (2) privately operated facilities and fifteen (15) county regional facilities (MDOC Facilities - **Attachment H**). In addition, MDOC houses State inmates in county jails throughout out the State of Mississippi. MDOC has an inmate capacity of approximately 20,000 inmates.

Authority: MDOC is responsible for the care, custody and control of State inmates in accordance with Miss. Code Ann. § § 47-5-10, *et seq.*

Purpose: MDOC (also referred to as “Agency”) issues this Invitation for Bid (“IFB”) for the purpose of soliciting competitive sealed bids from qualified and interested bidders to provide Guard Services for Outpatient Clinic/Hospital Visits and Hospitalizations of State inmates within the State of Mississippi. MDOC seeks to award contracts to a primary and secondary bidder for each region as shown in **Attachments K and L**. A primary and secondary bidder will be selected in order of lowest and best responsible and responsive bid which meets the requirements and criteria set forth herein.

Section 2 – Timeline

| Task | Date |
|--|--|
| Invitation for Bid Issued/ 1 st Publication | Monday, November 29, 2021 |
| 2 nd Publication | Monday, December 6, 2021 |
| Questions and Requests for Clarification to MDOC Deadline | Wednesday, December 15, 2021 by 2:00p.m., CST |
| Written Answers to Questions | Tuesday, December 21, 2021 by 2:00p.m., CST |
| Bid Package Submission Deadline: | Wednesday, January 5, 2022 by 2:00p.m., CST |
| Bid Opening | Wednesday, January 5, 2022 at 2:00p.m., CST |
| Date of the Notice of Intent to Award | Wednesday, January 19, 2022 |
| Post-Award Debriefing Request Due Date | Monday, January 24, 2022 by 2:00p.m., CST |
| Post-Award Debriefing Held By Date: | Thursday, January 27, 2022 at 10:00a.m., CST |
| Protest Deadline Date | Thursday, February 3, 2022 by 2:00 p.m., CST |

Section 3 – Contact and Questions/Requests for Clarification

3.1 Bidders must carefully review this solicitation, the contract, risk management provisions, and all attachments for defects, questionable, or objectionable material. Following

review, bidders may have questions to clarify or interpret the IFB in order to submit the best bid possible. To accommodate the questions and requests for clarifications, bidders shall submit any such question via email by the deadline reflected in Section 2. All questions and requests for clarifications must be directed by email to:

Kimbley Hendrix, Bid Coordinator
Telephone: 601-359-5600
E-mail: procurement@mdoc.state.ms.us

- 3.2 Bidders should enter “IFB RFx Number: 3160004471 - Questions” as the subject for the email. Question submittals should include a reference to the applicable IFB section and be submitted in the format shown below:

| | IFB Section, Page Number | Bidder Question/Request for Clarification |
|----|--------------------------|---|
| 1. | | |

- 3.3 Official responses will be provided only for questions submitted as described above and only to clarify information already included in the IFB. The identity of the organization submitting the question(s) will not be revealed. All questions and answers will be published on the Mississippi Contract/Procurement Opportunity Search Portal website and the MDOC's website as an amendment to the IFB by the date and time reflected in Section 2.
- 3.4 MDOC will not be bound by any verbal or written information that is not contained within this IFB unless formally noticed and issued by the contact person as an IFB amendment. Bidders are cautioned that any statements made by MDOC personnel that materially change any portion of the bid document shall not be relied upon unless subsequently ratified by a formal written amendment to the bid document.
- 3.5 All bidder communications regarding this IFB must be directed to the Bid Coordinator. Unauthorized contact regarding the IFB with other employees of the MDOC may result in the bidder being disqualified, and the bidder may also be suspended or disbarred from the State.
- 3.6 No Pre-Bid Conference, Tour, or Site Visit will be held for this IFB.
- 3.7 **Acknowledgement of Amendments:** Should an amendment to the IFB be issued, it will be posted on the Mississippi Contract/Procurement Opportunity Search Portal website and the MDOC's website in a manner that all bidders will be able to view. Further, bidders must acknowledge receipt of any amendment to the solicitation by signing and returning the Acknowledgement of Amendments form (**Attachment I**) with the bid package, by identifying the amendment number and date in the space provided. The acknowledgment should be received by the MDOC by the time, date, and at the place specified for receipt of bids. It is the bidder's sole responsibility to monitor the websites for any updates or amendments to the IFB.

- 3.8 Bidder must provide a signed Acknowledgements of IFB Amendment(s), Questions and Answer document(s), and/or Summary of Pre-Bid Conference, Tour, if any were issued/posted on the Mississippi Contract/Procurement Opportunity Search Portal website and the MDOC's website.
- 3.9 The IFB is comprised of the base IFB document, any attachments, any amendments issued prior to the submission deadline, and any other documents released before contract award.

Section 4 – Scope of Service.

The Bidder will provide necessary armed security guards to guard inmates being hospitalized or receiving outpatient services in a clinic or hospital.

- 4.1 Two (2) uniformed armed security guards for each inmate.
- 4.2 Services to be provided include:
 - 4.2.1 Safeguarding MDOC, hospital and clinic personnel, as well as MDOC, hospital and clinic property while guarding MDOC inmates at off-site clinic and/or hospital locations.
 - 4.2.3 Use of Restraint Devices. Bidder is to provide necessary restraint devices, as needed, while MDOC inmates are in Bidder's custody. All MDOC inmates from the state, regional and private facilities or county jail facilities will be in restraint devices upon transport to off-site outpatient clinical/hospital visits or hospitalizations. Security guard personnel shall note on the Transfer of Custody form the appropriate owner of the applicable restraint devices. When necessary, Bidder will be responsible for providing appropriate restraint devices until custody of inmate is transferred back to the state, regional or private facility or county jail.

Restraining devices include, but are not limited to, handcuffs, waist chains and/or leg irons. These restraining devices are to be used in accordance with the MDOC and hospital/clinic policy.

All security guard personnel used to provide services to MDOC must receive two (2) hours of training annually on the proper use of restraints for hospitalized inmates. Training is to be supplied by Bidder, said training must be approved by MDOC's Training Director

Security guard personnel shall be responsible for returning any restraint devices to the appropriate facility unless the facility assuming custody of the inmate takes the restraints. The transfer of restraints shall be noted on the Transfer of Custody form. If the facility takes restraints belonging to Bidder, the facility will be responsible for returning these restraints to Bidder.

- 4.2.3 Bidder shall provide armed security guard personnel to hospitals and clinics unless the hospital/ clinic policy prohibits armed guards. In this case, hospital/clinic policy shall be followed.
- 4.2.4 Male and female inmates shall be separated. Bidder shall provide qualified female security guard(s) for the supervision of female inmates and qualified male security guards(s) for the supervision of male inmates. Under no circumstance shall female inmates be guarded by male security guards or a male inmates be guarded by female security guards.
- 4.2.5 Bidder shall provide a copy of its orientation and training program for all security guard personnel to MDOC for approval prior to the commencement of the awarded contract.
- 4.2.6 While on duty post, all security guard personnel shall be in a uniform, clearly marked as that of the Bidder. The uniform shall be one that is agreed upon by the MDOC and Bidder. The uniform is to be neat, clean, pressed and in good condition. Identifying name badges and guard company logo shall be clearly visible.
- 4.2.7 Notification Requirements.
- 4.2.7.1 Bidder shall provide services upon verbal request from MDOC or a facility that houses MDOC inmates. Requests for services may be initiated at any time 24 hours a day, 7 days a week, 365 days a year. When possible, MDOC will provide 24-hours advanced notice. However, it is anticipated that a considerable portion of requests for armed security guard services may be during an emergency situation.
- 4.2.7.2 Clinic/Hospital Outpatient Services and Non-Emergency Hospitalizations. MDOC will notify Bidder the day before the scheduled off-site clinic visits and/or hospital services and provide Bidder with the following:
- Name, MDOC number and sex of the inmate;
 - Name and address of physician or location of outpatient service;
 - Expected inmate arrival time*
 - Estimated length of time required for visit or service;
 - Exact location of transfer (e.g., which entrance when medical facilities have multiple entrances).
- *Security guard personnel should arrive at the designated site 15-30 minutes prior to expected inmate arrival time.*
- 4.2.7.3 Emergency Hospitalization Services. Upon hospital admission of an inmate, MDOC will initiate a request for armed security guard personnel to Bidder. Bidder shall respond to the request within 30 minutes to provide confirmation of availability of guard personnel. Guard personnel shall be

required to assume custody of the inmate within 2 hours of initiated request. If no personnel are available, MDOC will contact secondary bidder.

4.2.8 Security Operations.

Security guard personnel shall not permit inmates (unless approved in writing by the Superintendent or Warden):

- To have visitors;
- To make or receive telephone calls;
- To send or receive correspondence or packages.

Bidder shall provide a duty roster for all assigned security guard personnel. The duty roster shall be used to record the signature of each security guard reporting for duty and all activities occurring during that guard's tour of duty. Upon request, the duty rosters shall be made available to MDOC personnel for inspection.

Bidder shall provide adequate supervisory personnel to ensure frequent and random security checks to its security guard personnel. These security checks, at a minimum, shall be once each shift and be reflected in Bidder's Security Logs. The security guard personnel assigned to the hospital or clinic is responsible for maintaining the Bidder's Security Logs.

4.2.9 Confidentiality.

Any information regarding the institution, facility, personnel or inmate, either oral or written, shall be considered strictly confidential and shall not be divulged to anyone except appropriate MDOC personnel and supervisors. Bidder shall adequately train all security guard personnel and supervisors on confidentiality, privacy and the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Bidder shall be compliant with the provisions of the HIPAA. Bidder agrees to comply with the "Administrative Simplification" provisions of the HIPAA, including electronic data interchange, code sets, identifiers, security, and privacy provisions.

Bidder shall represent and warrant that it shall have in place and maintain all required means to protect the information and report within twenty-four (24) hours any confirmed breach of such information. Bidder shall be responsible and liable for any confirmed breach and any resulting damages which arise during the term of the awarded contract including indemnifying and holding harmless MDOC from any claim which arises.

Bidder shall agree and execute a Business Associate Agreement (**Attachment J**), upon contract award.

- 4.2.10 Bidder shall provide and maintain a current list of all security guard personnel who are to be used in maintaining the care and custody of MDOC inmates. This list shall be furnished to MDOC's Human Resources Department and kept current for verification of employment.
- 4.2.11 Bidder must provide their security guard personnel with photo identification cards. The identification card must be shown to MDOC personnel before the inmate's custody is transferred to the security guard personnel and upon request at any time by MDOC personnel during security visits. MDOC personnel shall relinquish custody to security guard personnel by completing a Transfer of Custody or Release of Offender form. MDOC personnel will contact Bidder to verify security guard's employment status. The releasing MDOC personnel shall retain a copy of the Transfer of Custody or Release of Offender form as a record of the transfer.
- 4.2.12 Security guard personnel shall not represent themselves as employees of the State of Mississippi, the Mississippi Department of Corrections, or the institution/facility or county jail. Security guard personnel shall be responsible for maintaining a good working relationship with hospital and clinic personnel. Bidder shall report any conflict or difficulty involving security guard personnel and/or hospital/clinic personnel or others in the community to the Warden or his/her designee.
- 4.2.13 Security guard personnel are strictly prohibited from the use of any substance which can impair said personnel's mental or physical performance which includes, but is not limited to, the use of alcohol or medication. All security guard personnel shall refrain from consuming alcoholic beverages at least eight (8) hours prior to reporting for duty. Consuming alcoholic beverages while on duty is strictly prohibited.
- 4.2.14 Security guard personnel will adhere to MDOC's smoking policies and procedures, if applicable.
- 4.2.15 MDOC will not be responsible for the cost of meals or any other expenses incurred by security guard personnel. Security guard personnel are prohibited from accepting food or anything else of value from the hospital or clinic personnel or facility.
- 4.2.16 At the beginning of each shift, oncoming security guard personnel shall be required to search the premises making sure the area housing the inmate is secure and free of contraband.

4.3 Qualification of Guards.

- 4.3.1 All security guard personnel utilized for the services outlined in this IFB shall be subject to a thorough National Crime Information Center (NCIC) background check, including, but not limited to: fingerprint check, criminal records check, sex offender registration records check and drug screening at Bidder's expense and

prior to engagement. Bidder shall certify to MDOC that background checks have been completed on all security guard personnel assigned to guard MDOC inmates.

- 4.3.2 All security guard personnel must have a minimum of two (2) years' experience as a security guard, or two (2) years' experience in a branch of law enforcement or other type of protection service. MDOC will audit proof of experience periodically.
- 4.3.3 All security guard personnel utilized for this service must be able to speak, read and write in English.
- 4.3.4 All security guard personnel must have a completed I-9 (Employment Eligibility Verification Form) on file with Bidder and be physically and mentally qualified to perform the requirements as listed in the IFB.
- 4.3.4 Staff terminated from employment by MDOC may not be employed by Bidder for services under this IFB without prior written approval from the Commissioner or his/her designee.

4.4 Training of Guards.

- 4.4.1 All security guard personnel must be capable and trained to handle any and all incidents in a legal and professional manner.
- 4.4.2 All security guard personnel shall complete an orientation training program approved by MDOC prior to commencing duties as a security guard for MDOC inmates. The orientation training curriculum shall be provided to the MDOC Training Director and Commissioner or his/her designee for approval prior to implementation.
- 4.4.3 All security guard personnel shall complete appropriate firearms training and certification annually and be fully qualified with their assigned weapon. All security guard personnel shall undergo firearm qualifications annually at Bidder's firing range.
- 4.4.4 All security guard personnel provided must be authorized to carry weapons in the State of Mississippi with a copy of the Security Guard Firearms Permit. All weapon permits should be current.
- 4.4.5 Additional training curriculums shall also be provided to the MDOC Training Director and the Commissioner or his/her designee for approval prior to implementation of such training. The following training must include, but is not limited to:
 - Emergency Procedures - mandatory every year.
 - Restraining Techniques - mandatory every year.
 - Firearms - mandatory as required by MDOC.

- CPR and First Aid – mandatory as required by MDOC
- Use of Force – mandatory as required by MDOC

4.4.5 Prior to assuming any security guard or supervisory post, Bidder must furnish Certificates of Completion, Training Transcripts, and Firearm Certifications to the MDOC Training Director, showing all security guard personnel utilized for the services outlined in the IFB have completed the appropriate orientation training, annual refresher training and firearm qualification. MDOC will not be responsible for the training or cost of training for security guard personnel.

4.4.6 Bidder will be responsible for ensuring that its security guard personnel assigned to a designated hospital(s) attend any orientation program required by said hospital. This program shall be mandatory and will be at the expense of the Bidder. Any annual training requirements required by the hospital(s) must be a part of Bidder's training program. Documentation of hospital(s) training shall be provided to MDOC's Training Director.

4.5 Performance.

4.5.1 All security guards personnel shall perform their duties in a professional manner and shall avoid using force, except when reasonably necessary to protect hospital/clinical personnel and/or hospital/clinical property. In instances where use of force is required, security guard personnel shall follow MDOC's Use of Force Standard Operating Procedure (S.O.P.) regarding notification and reporting of a "Use of Force" incident.

4.5.2 All security guard personnel utilized for the service outlined in this IFB shall remain at their duty area until they have been properly relieved. Under no circumstances shall any assigned duty area be abandoned.

4.5.3 Sleeping on duty will not be tolerated and the security guard personnel who are observed sleeping while on duty will not be allowed to continue to provide services to MDOC. MDOC security personnel from each location and other designated MDOC personnel will provide periodic audits of security guard personnel performing their duties.

4.5.4 Bidder shall ensure that all security guard personnel have a method of communicating with their supervisor. Communication may be in the form of two-way radios and/or cellular telephones. All communication devices must have the approval for use from the hospital administration. Alternate methods of communication must be established for security guard personnel in areas where two-way radios and/or cellular phones are not allowed.

4.5.5 Security guard personnel are required to remain in the inmate (patient) room where the inmate can be seen at all times by the security guard personnel. The only exception is when the inmate is in a medical area where no one but the inmate and

medical personnel are allowed to enter (i.e. surgery, recovery or intensive care). The security guard personnel will remain outside the entrance to the above area or in a location designated by the hospital or clinic and approved by MDOC.

- 4.5.6 Bidder shall provide a 24 hour per day, 7 days per week, 365 days per year telephone number to MDOC to be utilized when security guard services are required at any hospital or clinic within the State of Mississippi. MDOC requires that Bidder have a security guard available within one (1) hour after Bidder receives notification that security guard personnel is required.
 - 4.5.7 The maximum length of time a security guard may continuously occupy a post is sixteen (16) hours within a 24-hour period.
 - 4.5.8 Security guard personnel will indicate on Bidder's Security Log each time they are relieved by the relief officer (both shall sign) and then pass-off to the next shift or to MDOC security personnel who are picking up the inmate to return to the facility. When the inmate is released from the hospital, the security guard personnel will turn the Bidder's Security Log, restraints, medical packet and the signed Transfer of Custody form over to the MDOC security personnel. The security guard personnel will submit the copy of the Transfer of Custody and other appropriate documentation to the Bidder's shift supervisor.
 - 4.5.9 Bidder must provide an on-site supervisor at Central Mississippi Medical Center (CMMC) 24-hours per day when inmates are present.
- 4.6 Transfer of Custody.
- 4.6.1 MDOC will provide the Transfer of Custody form which will be signed by both the MDOC security personnel and security guard personnel, noting transfer of custody, restraint devices and medical packet of the MDOC inmate from the MDOC security personnel to security guard personnel and from security guard personnel back to the MDOC security personnel. This form will be attached to Bidder's Security Log to be completed by each security guard while on a security post. The other copy will be returned to the MDOC security personnel transporting the MDOC inmate back to facility.
 - 4.6.2 For security guard personnel providing short-term services, a copy of the MDOC Transfer of Custody form and Bidder's Security Log form shall be submitted to MDOC with each monthly invoice. If multiple inmates are housed in a security holding tank and/or approved waiting area, Bidder shall follow MDOC's policy on the MDOC security personnel to inmate ratio.
 - 4.6.3 For security guard personnel providing hospital services, a copy of the MDOC Transfer of Custody form and Bidder's Security Log and other information detailed in the Security Guard Post Orders will be submitted to MDOC when the inmate is

released from the hospital. These completed forms will become a part of the inmate's medical record.

4.7 Inmate Death.

4.7.1 The Bidder will follow MDOC policies and procedures on the death of an inmate, if an inmate dies while in Bidder's custody, MDOC policy and procedure regarding inmate death will detail the procedures to follow, Bidder shall follow the procedures as required. The transfer of custody goes to the Coroner in the county where the hospital is located. The Coroner is the only person allowed to receive custody of the inmate's body. The signed Transfer of Custody form and restraints will be given to MDOC security guard personnel.

4.8 Transfer of Medical Records.

4.8.1 The MDOC security personnel will leave the facility with a sealed copy of inmate's medical record for each inmate being transported. The sealed medical record is to be transferred with the inmate and noted on the MDOC Transfer of Custody form. The security guard personnel is responsible for giving the sealed medical record to the appropriate medical personnel with the inmate. The medical personnel is responsible for providing a sealed medical record back to the security guard personnel. The sealed medical record and Transfer of Custody form are to be returned to MDOC security personnel.

4.9 Reports.

4.9.1 Bidder shall supply a Security Shift Report to MDOC as required by the MDOC Security Guard Post Orders. A copy of the Bidder's Security Log with appropriate attachments will be submitted with Bidder's invoice to MDOC.

Section 5 - Basis for Award

5.1 All bids will be reviewed first to determine whether a vendor is responsive, responsible and/or acceptable. Requirements are not assigned a point percentage and/or score, but are instead simply recorded as PASS or FAIL. Bids with errors that do not alter the substance of the bid can be accepted, and the Agency Chief Procurement Officer may allow the bidder to correct the problem prior to review as long as the irregularities are insignificant mistakes that can be waived or corrected without prejudice to other bidders.

5.2 MDOC has the right to waive minor defects or variations of a bid from the exact requirements of the specifications that do not affect the price, quality, quantity, delivery, or performance time of the services being procured. If insufficient information is submitted by a bidder with the bid for MDOC to properly evaluate the bid, MDOC has the right to require such additional information as it may deem necessary after the time set for receipt of bids, provided that the information requested does not change the price, quality, quantity, delivery, or performance time of the services being procured.

- 5.3 All bids which are determined to be responsive, responsible and/or acceptable will continue on to the price bid or cost evaluation. The lowest cost bid will receive the maximum 100 points allocated to cost. The point allocations for cost on the other bids will be evaluated according to the following formula: Price of the lowest responsive and responsible bid divided by the price of the responsive and responsible bid being rated times the maximum 100 points allocated for cost equal the awarded points.
- 5.4 MDOC intends to award a primary and secondary contract per region to provide the services described in this IFB in order of lowest responsible and responsive bidders.
- 5.5 Tie Bids. The prime criterion for making an award where tie bids are involved shall be in compliance with Mississippi Code Annotated §§ 31-7-15(1) and 31-7-47, *i.e.*, that resident vendors shall be given preference over nonresident vendors. An award should not be made by drawing lots, or by dividing business among identical bidders. In the discretion of the MDOC Commissioner or designee, award shall be made in any permissible manner that will discourage tie bids. If no permissible method will be effective in discouraging tie bids, and a written determination is made so stating, award may be made by drawing lots. In such case, those bidders involved shall be invited to attend the procedure. The written determination shall be maintained in the Agency Procurement File.

Section 6 - Minimum Bidder Qualifications

The Bidder must have:

6.1 Prior Experience:

Bidder must have been in business and provided guard services similar in requirements and scale to those described in this IFB for a minimum of five (5) years.

6.2 Required Certification, Accreditation, and/or Licenses:

Bidder shall provide notarized copies of all valid licenses and certificates required for performance of services. The notarized copies shall be delivered to MDOC no later than ten (10) days after Bidder receives the Notice of Intent to Award from MDOC. Current notarized copies of licenses and certificates shall be provided to MDOC within twenty-four hours of demand at any time during the contract term. Bidder must possess and maintain the minimum bidder certifications, accreditations, and/or licensures described in this IFB, by way of illustration and not limitation, the following:

6.2.1 A business license valid in the area of guard services, if applicable.

6.2.2 A professional license or certificate in the field of security, if applicable.

6.3 Financial Stability or Solvency: Bidder must be financially stable or solvent. Bidder shall submit copies of the most recent year's independently audited financial statements as well as financial statements for the preceding three (3) years, if they exist. The submission must

include the audit opinion, the balance sheet, and statements of income, retained earnings, cash flows, and the notes to the financial statements. If independently audited financial statements do not exist, Bidder must state the reason and, instead submit sufficient information to enable the MDOC to access the financial stability or solvency of the Bidder, such as financial statements, credit ratings, a line of credit, or other financial arrangements sufficient to enable the Bidder to be capable of meeting the requirements of this IFB.

- 6.4 A minimum score of six (6) on the Reference Score Sheet (**Attachment D**) from reference interviews by MDOC staff with three (3) bidder references (for a total minimum scoring requirement of eighteen (18) points), as well as all other requirements of this IFB.
- 6.5 The bidder will be required before the award of any contract to show to the complete satisfaction of MDOC that it has the necessary facilities, ability, and financial resources to provide the service specified therein in a satisfactory manner. The bidder will also be required to give a past history and references in order to satisfy MDOC in regard to the bidder's qualifications. MDOC will make reasonable investigations deemed necessary and proper to determine the ability of the bidder to perform the work, and the bidder shall furnish to MDOC all information for this purpose that may be requested. MDOC reserves the right to reject any bid if the evidence submitted by, or investigation of, the bidder fails to satisfy MDOC that the bidder is properly qualified to carry out the obligations of the contract and to complete the work described therein. Evaluation of the bidder's qualifications shall include:
 - 6.5.1 the ability, capacity, skill, and financial resources to perform the work or provide the service required;
 - 6.5.2 the ability of the bidder to perform the work or provide the service promptly or within the time specified, without delay or interference;
 - 6.5.3 the character, integrity, reputation, judgment, experience, and efficiency of the bidder; and,
 - 6.5.4 the quality of performance of previous contracts or services.

Section 7 - Duration

The period of performance of services under the resulting Contract shall begin on March 1, 2022 and end on February 28, 2025. Upon written agreement of both parties at least 90 days prior to each contract anniversary date, MDOC reserves the right to renew the contract for up to two (2) successive one-year periods under the same prices, terms, and conditions as in the original contract. The total period of performance with renewals shall not exceed five (5) years.

Section 8 - Bid Submission Requirements

8.1 Submission Format

The bid package must be in a sealed envelope and must contain the following:

8.1.1 Bid Cover Sheet (Attachment A)

- 8.1.2 **Bid Form (Attachment B)** – all pricing must be submitted on the bid form. Failure to complete and/or sign the bid form may result in bidder being determined non-responsive.
- 8.1.2 **References (Attachment C)** – each bidder must furnish a listing of at least three (3) trade references along with the contact person, address, and phone number for each. These references must be familiar with the bidder’s abilities in the areas involved with this solicitation. MDOC will use these references to determine the bidder’s ability to perform the services. It is the responsibility of the bidder to ensure that the reference contact information is correct and current. MDOC will not track down references. Bidders should verify before submitting their bid that the contact person and phone number are correct for each reference. **MDOC must be able to reach three (3) references for a bidder within two (2) business days of bid opening to be considered responsive. Further, the bidder must score a minimum of six (6) points on each Reference Score Sheet which will be used by MDOC staff when interviewing the three (3) references (for a total minimum scoring requirement of eighteen (18) points) to be considered responsive and/or responsible.** Only bidders who are found responsive and/or responsible will have their bids considered. Bidder may submit as many references as desired. MDOC will begin contacting references at the top of the list and will continue down the list until they have completed Reference Score Sheets for three (3) references. After three (3) score sheets are completed, the staff will stop the reference check process.

8.2 Submission Requirements

- 8.2.1 The signed original bid package, four (4) copies of the signed original bid package, and one (1) electronic copy (on CD, DVD or USB flash drive) of its bid package submitted in a sealed envelope or package to 301 North Lamar Street, Jackson, MS 39201 no later than the time and date specified for receipt of bids. The electronic files shall not be password protected, shall be in .PDF or .XLS format, and shall be capable of being copied to other media including readable in Microsoft Word and/or Microsoft Excel. (Also see, 8.2.2 and 8.2.3)
- 8.2.2 The sealed envelope or package shall be marked with the bid opening date and time, and the number of the invitation for bids 2:00p.m., CST, Wednesday, January 5, 2022, IFB RFx Number 3160004471. Bids are subject to rejection unless submitted with the information included on the outside the sealed bid envelope or package.
- 8.2.3 Sealed bids should be mailed or hand-delivered to and labeled as follows:

IFB for Guard Services
IFB RFx: 3160004471
Opening Date: 2:00p.m., CST, Wednesday, January 5, 2022
Mississippi Department of Corrections

Attention: Kimbley Hendrix, Bid Coordinator
301 North Lamar Street
Jackson, Mississippi 39201
SEALED BID – DO NOT OPEN

- 8.2.4 All bid packages must be received by MDOC no later than 2:00p.m., CST, Wednesday, January 5, 2022. Bids submitted via facsimile (fax) machine **will not** be accepted. It is suggested that if a bid is mailed to MDOC, it should be posted in certified mail with a return receipt requested. MDOC will not be responsible for mail delays or lost mail. All risk of late arrival due to unanticipated delay whether delivered by hand, U.S. Postal Service, courier or other delivery service or method is entirely on the bidder. All bidders are urged to take the possibility of delay into account when submitting a bid.
- 8.2.5 Timely submission of the bid package is the responsibility of the bidder. Bids received after the specified time will be rejected and maintained unopened in MDOC's procurement file. A bid received at the place designated in the solicitation for receipt of bids after the exact time specified for receipt will not be considered unless it has been determined by MDOC that the late receipt was due solely to mishandling by MDOC after receipt at the specified address.
- 8.2.6 The time and date of receipt will be indicated on the sealed bid envelope or package by MDOC staff. The only acceptable evidence to establish the time of receipt at the office identified for bid opening is the time and date stamp of that office on the bid wrapper or other documentary evidence of receipt used by that office.
- 8.2.7 Each page of the bid form and all attachments shall be identified with the name of the bidder.
- 8.2.8 Failure to submit a bid on the bid form provided will be considered cause for rejection of the bid. **Modifications or additions to any portion of the bid document may be cause for rejection of the bid.** MDOC reserves the right to decide, on a case-by-case basis, whether to reject a bid with modifications or additions as non-responsive.
- 8.2.9 Bidders taking exception to any part or section of the solicitation shall indicate such exceptions on the IFB Exception(s) form (**Attachment G**). Failure to indicate any exception will be interpreted as the bidder's intent to comply fully with the requirements as written. Conditional or qualified bids, unless specifically allowed, shall be subject to rejection in whole or in part. The bid must contain a high degree of acceptance of contract terms and conditions listed in **Attachment E** and **F** of this IFB.
- 8.2.10 A bid response that includes terms and conditions that do not conform to the terms and conditions in the bid document is subject to rejection as non-responsive. MDOC reserves the right to permit the bidder to withdraw nonconforming terms

and conditions from its bid response prior to a determination by MDOC of non-responsiveness based on the submission of nonconforming terms and conditions.

8.2.11 As a precondition to bid acceptance, MDOC may request the bidder to withdraw or modify those portions of the bid deemed non-responsive that do not affect quality, quantity, price, or delivery of the service.

8.2.12 Any bidder claiming that its response contains information exempt from the Mississippi Public Records Act (Miss. Code Ann. §§ 25-61-1 *et seq.* and 79-23-1), shall segregate and mark the information as confidential and provide the specific statutory authority for the exemption.

Section 9 – Bidder Certification

The bidder agrees that submission of a signed bid form is certification that the bidder will accept an award made to it as a result of the submission.

Section 10 – Debarment

By submitting a bid, the bidder certifies that it is not currently debarred from submitting bids for contracts issued by any political subdivision or agency of the State of Mississippi and that it is not an agent of a person or entity that is currently debarred from submitting bids for contracts issued by any political subdivision or agency of the State of Mississippi.

Section 11 – Registration with Mississippi Secretary of State

By submitting a bid, the bidder certifies that it is registered to do business in the State of Mississippi as prescribed by Mississippi law and the Mississippi Secretary of State or, if not already registered, that it will do so within seven (7) business days of being notified by MDOC that it has been selected for contract award.

Section 12 – Insurance

12.1 Each successful bidder shall, at its own expense, obtain and maintain insurance which shall include the following types and coverage limits:

12.1.1 Workers’ Compensation coverage as required by the State of Mississippi. The policy shall provide coverage for all states of operation that apply to the performance of the scope of work.

12.1.2 Commercial General Liability insurance covers bodily injury, death, and property damage, including personal injury liability, products and completed operations.

a. Bodily Injury/Death: \$1,000,000.00 per occurrence limit for any single claimant; and \$2,000,000.00 per occurrence limit for multiple claimants.

b. Property Damage: \$1,000,000.00 per occurrence limit for any single claimant; and \$2,000,000.00 per occurrence limit for multiple claimants.

12.1.3 Professional Liability insurance, with limits of one million dollars (\$1,000,000.00) for each claim.

12.2 Additionally:

- 12.2.1** In no event shall the requirement for an insurance, bond, or other surety be waived.
- 12.2.2** All insurances policies will list the State of Mississippi as an additional insured.
- 12.2.3** All insurance policies shall be issued by companies authorized to do business under the laws of the State of Mississippi, meaning insurance carriers must be licensed or hold a Certificate of Authority from the Mississippi Department of Insurance.
- 12.2.4** Bidder shall submit to MDOC within thirty (30) days of notification of intent to award, a certificate of insurance and/or bond which outlines the coverage and limits defined in the procurement and contract. There are no provisions for exceptions to this requirement. Failure to provide the certificates of insurance within a 30-day period may be cause for your bid to be declared non-responsive or for your contract to be cancelled.
- 12.2.5** Bidder shall obtain at Bidder's expense the insurance and/or bond requirements specified in the procurement and contract prior to performing under this Contract, and Bidder shall maintain the required insurance and/or bond coverage throughout the duration of this Contract and all warranty periods. There are no provisions for exceptions to this requirement.
- 12.2.6** Bidder shall not commence work under this contract until it obtains all insurance and/or bond required under this provision and furnishes a certificate or other form showing proof of current coverage to the State. After work commences, the Bidder will keep in force all required insurance and/or bond until the contract is terminated or expires.
- 12.2.7** Bidder shall submit renewal certificates as appropriate during the term of this Contract.
- 12.2.8** Bidder shall instruct the insurers to provide MDOC thirty (30) days advance notice of any insurance cancellation.
- 12.2.9** Bidder shall ensure that should any of the above described policies be cancelled before the expiration date thereof, or if there is a material change, potential exhaustion of aggregate limits or intent not to renew insurance and/or bond coverage(s), that written notice will be delivered to the MDOC Chief Procurement Officer.

12.2.10 There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance and/or bond coverage(s) to MDOC. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of the Contract and shall be grounds for immediate termination of this Contract by MDOC.

Section 13 – Bid Opening

Bid opening will be open to the public; however, this will include opening, reading, and listing the name of each bidder and the bid price of each bid only. No discussions will be entered into with any bidder as to the quality or provisions of the specifications and no award will be made either stated or implied at the bid opening.

Section 14 – Award Notification

Award for this procurement will be posted on the Mississippi Contract/Procurement Opportunity Search Portal website and the MDOC website at <http://www.mdoc.ms.gov>. Bidders will be notified via e-mail of the awards. Additionally, a letter will be sent to all bidders.

Section 15 – Procurement Methodology

15.1 Restrictions on Communications with MDOC and MDOC Staff

At no time shall any bidder or its personnel contact, or attempt to contact, any MDOC staff regarding this IFB except the contact person as set forth and in the manner prescribed in Section 3.

15.2 Bidder Investigations

Before submitting a bid, each bidder shall make all investigations and examinations necessary to ascertain all site conditions and requirements affecting the full performance of the Contract and to verify any representations made by MDOC upon which the bidder will rely. If the bidder receives an award as a result of its bid submission, failure to have made such investigations and examinations will in no way relieve the bidder from its obligation to comply in every detail with all provisions and requirements of the Contract documents, nor will a plea of ignorance of such conditions and requirements be accepted as a basis for any claim whatsoever for additional compensation.

15.3 Expenses Incurred in Preparing Bid

MDOC accepts no responsibility for any expense incurred by any bidder in the preparation and presentation of a bid. Such expenses shall be borne exclusively by the bidder.

15.4 Independent Price Determination

By submitting a bid, the bidder certifies that the prices submitted in response to the solicitation have been arrived at independently and without any consultation, communication, or agreement with any other bidder or competitor relating to those prices, the intention to submit a bid, or the methods or factors used to calculate the prices bid. The prices quoted shall be inclusive of, but not limited to the following: all required labor, equipment/material, insurance, bond, or other surety, overhead, profit, vehicles, fuel and mileage, labor and supervision, training, business and professional licenses, certifications, fees, or permits, and, any and all other costs. All pricing should include all associated costs with no additional or hidden fees.

15.5 Rejection of Bids

A bid response that includes terms and conditions that do not conform to the terms and conditions in the IFB document is subject to rejection as non-responsive. Further, submission of a bid form that is not complete and/or signed is subject to rejection as non-responsive. MDOC reserves the right to permit the bidder to withdraw nonconforming terms and conditions from its bid response prior to a determination by MDOC staff of non-responsiveness based on the submission of nonconforming terms and conditions. Furthermore, if a bidder's price is substantially higher than those of other bidders, meaning those in excess of a twenty-five percent (25%) differential, the bidder's price will be deemed non-responsive.

15.6 Withdrawal of Bids

If the price bid is substantially lower than those of other bidders, a mistake may have been made. A bidder may withdraw its bid from consideration if certain conditions are met:

- (1) The bid is submitted in good faith;
- (2) The price bid is substantially lower than those of other bidders because of a mistake;
- (3) The mistake is a clerical error, not an error of judgment; and,
- (4) Objective evidence drawn from original work papers, documents, and other materials used in the preparation of the bid demonstrates clearly that the mistake was an unintentional error in arithmetic or an unintentional omission of a quantity of labor or material.

To withdraw a bid that includes a clerical error after bid opening, the bidder must give notice in writing to MDOC of claim of right to withdraw a bid. Within two (2) business days after the bid opening, the bidder requesting withdrawal must provide to the MDOC all original work papers, documents, and other materials used in the preparation of the bid.

A bidder may also withdraw a bid, prior to the time set for the opening of bids, by simply making a request in writing to the MDOC. No explanation is required.

No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work for the person to whom the contract is awarded, or otherwise benefit from the contract.

No partial withdrawals of a bid are permitted after the time and date set for the bid opening; only complete withdrawals are permitted.

15.7 Post-Award Bidder Debriefing

A bidder, successful or unsuccessful, may request a post-award bidder debriefing, in writing, by U.S. mail or electronic submission. The written request must be received by Kimbley Hendrix, Bid Coordinator, within three (3) business days of notification of the contract award. A post-award bidder debriefing is a meeting and not a hearing; therefore, legal representation is not required. A debriefing typically occurs within three (3) business days of receipt of the request. If a bidder prefers to have legal representation present, the bidder must notify Kimbley Hendrix, Bid Coordinator, in writing and identify its attorney by name, address, and telephone number. MDOC will schedule and/or suspend and reschedule the meeting at a time when a Representative of the Office of the Mississippi Attorney General can be present.

For additional information regarding Post-Award Bidder Debriefing, as well as the information that may be provided and excluded, please see Section 7-113 through 7-113.07, Post-Award Bidder Debriefing, of the *Public Procurement Review Board (PPRB) Office of Personal Service Contract Review Rules and Regulations* as updated and replaced by PPRB.

15.8 Protests

Any actual or prospective bidder who is aggrieved in connection with this solicitation or the outcome of this IFB may file a protest with Karei McDonald, Deputy Executive Commissioner. The protest shall be submitted within seven (7) calendar days of notification of the contract award or on or before 2:00p.m., CST, Thursday, February 3, 2022, in writing after such aggrieved person or entity knows or should have known of the facts giving rise thereto. The written protest letter shall contain an explanation of the specific basis for the protest. All protests must be in writing, dated, signed by the bidder or an individual authorized to sign contracts on behalf of the protesting bidder, and contain a statement of the reason(s) for protest, citing the law(s), rule(s) and regulation(s) or procedure(s) on which the protest is based. The protesting bidder must provide facts and evidence to support the protest. A protest is considered filed when received by Karei McDonald, Deputy Executive Commissioner via either U.S. mail, postage prepaid, or by personal delivery. Protests filed 2:00p.m., CST, Thursday, February 3, 2022, will not be considered.

Section 16 – Required Contract Terms and Conditions

Any contract entered into with the MDOC pursuant to this IFB shall have the required clauses found in **Attachment E** and those required by the *Public Procurement Review Board (PPRB) Office of Personal Service Contract Review Rules and Regulations* as updated and replaced by PPRB. MDOC discourages exceptions from these required clauses. Such exceptions may cause a bid to be rejected as non-responsive. Bids which condition the bid based upon the State accepting other terms and conditions not found in the IFB, or which take exception to the State's terms and conditions, may be found non-responsive, and no further consideration of the bid will be given.

Section 17 – Optional Contract Terms and Conditions

Any contract entered into with the MDOC pursuant this IFB may have, at the discretion of the MDOC, the optional clauses found in **Attachment F** and those within the *Public Procurement Review Board (PPRB) Office of Personal Service Contract Review Rules and Regulations* as updated and replaced by PPRB. MDOC discourages exceptions from these optional clauses. Such exceptions may cause a bid to be rejected as non-responsive. Bids which condition the bid based upon the State accepting other terms and conditions not found in the IFB, or which take exception to the State's terms and conditions, may be found non-responsive, and no further consideration of the bid will be given.

Section 18 – MDOC Website

This IFB, questions and answers concerning this IFB, and the Notice of Intent to Award will be posted on the MDOC website at <https://www.mdoc.ms.gov> and on the Mississippi Contract/Procurement Opportunity Search Portal website.

Section 19 – Attachments

The attachments to this IFB are made a part of this IFB as if copied herein in words and figures.

Attachment A
BID COVER SHEET
IFB RFx: 3160004471
IFB for Guard Services

Bids are to be submitted as listed below, on or before 2:00p.m., CST, Wednesday, January 5, 2022.

PLEASE MARK YOUR ENVELOPE:

IFB for Guard Services
IFB RFx: 3160004471
Opening Date: 2:00p.m., CST, Wednesday, January 5, 2022
Mississippi Department of Corrections
Attention: Kimbley Hendrix, Bid Coordinator
301 North Lamar Street
Jackson, Mississippi 39201
SEALED BID – DO NOT OPEN

Name of Company: _____

Quoted By: _____

Signature: _____

Address: _____

City/State/Zip: _____

Telephone: _____

Fax Number: _____

E-Mail Address: _____

Name and phone number of Company Representative to be contacted by Agencies seeking to contract for services pursuant to this IFB: _____

| | |
|--|--|
| FEI/FIN# (if company, corporation or partnership) | |
| SS# (if individual) | |

In addition to providing the above contact information, please answer the following questions regarding your company:

What year was your company started? _____

How many years has the company been in business of performing the services called for in this IFB? _____

Please provide the physical location and mailing address of your company's home office, principal place of business, and place of incorporation. _____

If your company is not physically located within the vicinity, how will you supply Guard Services to the MDOC? _____

Is your company currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, please discuss the impact both in organizational and directional terms. _____

Is your company licensed and/or certified to provide Guard Services as required by any and all applicable Federal and State law(s)? _____

List all licenses or permits your company possesses that are applicable to performing the services required in this IFB. _____

For how many customers has your company provided Guard Services in the past two years? Please include the dates, the size of area maintained, and the annual amount of the billing to each customer. _____

What is the largest customer your company has provided Guard Services for in the past two years? Please include the annual amount of the billing. _____

Describe any specific services which your company offers along with any specialized experience, certification, and/or education of your current staff. _____

List all equipment that your company has available or that is intended to be used to perform the services required in this IFB. _____

Attachment B
BID FORM
IFB RFX: 3160004471
IFB - Guard Services

| Company | Company Representative | Telephone Number |
|----------------|-------------------------------|-------------------------|
| | | |

The pricing quoted shall be inclusive of, but not limited to the following:

- All required equipment/materials
- All required insurance, bond, or other surety
- All required overhead
- All required profit
- All required transportation
- All required labor and supervision
- All required business and professional certifications, licenses, permits, or fees, etc. (if any)
- Any and all other costs associated with performing the services
- Any supervisory personnel required

The pricing must include ALL associated costs with no additional or hidden fees. The “Pricing Matrix by Region” must be used to submit pricing for guard services. It is the intention of MDOC to solicit pricing for each of the eight geographic regions in the State of Mississippi. MDOC reserves the right to award contracts to multiple vendors based on pricing for each geographic region. Please refer to Attachment K for a full page version of the below matrix and refer to Attachment L for a map of the eight geographic regions.

| Mississippi Department of Corrections | | | | | | | |
|---------------------------------------|------|--------|------------------|-----------------|-------------|------|---------------|
| Pricing Matrix by Region | | | | | | | |
| Regions | City | Region | Total Admissions | % of Admissions | Total Hours | Rate | Total Pricing |
| Total Central | | | 460 | 57.50% | 121,518 | \$ - | \$ - |
| Total Coastal | | | 76 | 9.50% | 20,077 | \$ - | \$ - |
| Total East Central | | | 4 | 0.50% | 1,057 | \$ - | \$ - |
| Total North Delta | | | 40 | 5.00% | 10,567 | \$ - | \$ - |
| Total North East | | | 36 | 4.50% | 9,510 | \$ - | \$ - |
| Total Pine Belt | | | 72 | 9.00% | 19,020 | \$ - | \$ - |
| Total South Delta | | | 72 | 9.00% | 19,020 | \$ - | \$ - |
| Total South West | | | 40 | 5.00% | 10,567 | \$ - | \$ - |
| Grand Totals | | | 800 | 100.00% | 211,336 | | |

The above information represents the approximate numbers of hours at each of the eight (8) regions in the state for the period beginning October 1, 2020 to September 30, 2021. MDOC does not anticipate a significant change in the ratio of guard service hours by region during the upcoming contract period. It is the intention of MDOC to receive pricing based on an hourly rate for guard service by region. MDOC will use the above matrix to objectively score each respondents pricing component. Respondents must submit pricing for at least one region, but may submit pricing for all regions. Pricing can be different for each region but must be the same for any location within a region. MDOC will select the lowest and best offer for each region as the primary contract. The next lowest and best offer for each region will be serves as the secondary contract for that region. Please refer to the map on Attachment L for a map of each region.

By signing below, the company representative certifies that he/she has authority to bind the company, and further acknowledges and certifies on behalf of the company:

1. That he/she has thoroughly read and understands the Invitation for Bids and Attachments thereto;
2. That the company meets all requirements and acknowledges all certifications contained in the Invitation for Bids and Attachments thereto;
3. That the company agrees to all provisions of the Invitation for Bids and Attachments thereto including, but not limited to, the Required and Optional Clauses to be included in any contract resulting from this IFB (Attachments E and F);
4. That the company will perform the services required at the prices quoted above;
5. That, to the best of its knowledge and belief, the cost or pricing data submitted is accurate, complete, and current as of the submission date;
6. The Bidder represents that its workers are licensed, certified and possess the requisite credentials to perform guard services; and,
7. **NON-DEBARMENT:** By submitting a bid, the bidder certifies that it is not currently debarred from submitting bids for contracts issued by any political subdivision or MDOC of the State of Mississippi and that it is not an agent of a person or entity that is currently debarred from

submitting bids for contracts issued by any political subdivision or MDOC of the State of Mississippi.

8. **INDEPENDENT PRICE DETERMINATION:** The bidder certifies that the prices submitted in response to the solicitation have been arrived at independently and without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder or competitor relating to those prices, the intention to submit a bid, or the methods or factors used to calculate the prices bid/offered.
9. **PROSPECTIVE CONTRACTOR'S REPRESENTATION REGARDING CONTINGENT FEES:** The prospective bidder represents as a part of such Bidder's bid that such Bidder *has not* retained any person or MDOC on a percentage, commission, or other contingent arrangement to secure this contract.
10. **REPRESENTATION REGARDING CONTINGENT FEES:** Bidder represents that it *has not* retained a person to solicit or secure a State contract upon an agreement or understanding for a commission, percentage, brokerage, or other contingent fee, except as disclosed in the Bidder's bid.
11. **REPRESENTATION REGARDING GRATUITIES:** Bidder represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the *Public Procurement Review Board (PPRB) Office of Personal Service Contract Review (OPSCR) Rules and Regulations*.

Company Name: _____

Printed Name of Representative: _____

Date: _____

Signature: _____

Note: Failure to sign the bid form may result in the bid being rejected as non-responsive. Modifications or additions to any portion of this bid document may be cause for rejection of the bid.

Attachment C

REFERENCES IFB RFx: 3160004471 IFB - Guard Services

Bidder may submit as many references as desired by submitting as many additional copies of Attachment C, References, as deemed necessary. MDOC will begin contacting references at the top of the list and will continue down the list until three (3) contacts have been reached will be contacted in order listed until two references have been interviewed and Reference Score Sheets completed for each of the two references. No further references will be contacted; however, bidders are encouraged to submit additional references to ensure that at least two references are available for interview. MDOC staff must be able to contact two references within two (2) business days of bid opening to be considered responsive or no later than Friday, January 7, 2022.

REFERENCE 1

Name of Company: _____

Dates of Service: _____

Contact Person: _____

Address: _____

City/State/Zip: _____

Telephone Number: _____

Cell Number: _____

E-mail: _____

Alternative Contact Person (optional): _____

Telephone Number: _____

Cell Number: _____

REFERENCE 2

Name of Company: _____

Dates of Service: _____

Contact Person: _____

Address: _____

City/State/Zip: _____

Telephone Number: _____

Cell Number: _____

E-mail: _____

Alternative Contact Person (optional): _____

Telephone Number: _____

Cell Number: _____

Attachment C
REFERENCES
IFB RFx: 3160004471 - Guard Services

REFERENCE 3

Name of Company: _____

Dates of Service: _____

Contact Person: _____

Address: _____

City/State/Zip: _____

Telephone Number: _____

Cell Number: _____

E-mail: _____

Alternative Contact Person (optional): _____

Telephone Number: _____

Cell Number: _____

REFERENCE 4

Name of Company: _____

Dates of Service: _____

Contact Person: _____

Address: _____

City/State/Zip: _____

Telephone Number: _____

Cell Number: _____

E-mail: _____

Alternative Contact Person (optional): _____

Telephone Number: _____

Cell Number: _____

REFERENCE 5

Name of Company: _____

Dates of Service: _____

Contact Person: _____

Address: _____

City/State/Zip: _____

Telephone Number: _____

Cell Number: _____

E-mail: _____

Alternative Contact Person (optional): _____

Telephone Number: _____

Cell Number: _____

**Attachment D
REFERENCES SCORE SHEET**

**IFB RFx: 3160004471
IFB - Guard Services**

TO BE COMPLETED BY MDOC STAFF ONLY

Company Name: _____

Reference Name: _____

Person Contacted, Title/Position: _____

Date/Time Contacted: _____

Service From/To Dates: _____

| | | |
|---|-----|----|
| Able to provide guard services when you called? | Yes | No |
| Satisfied with the guard services provided? If no, please explain. | Yes | No |
| Vendor easy to work with in scheduling guard services? | Yes | No |
| Were the guard services completed on time and within budget? | Yes | No |
| Vendor listened when you had an issue and readily offered a solution? (If never had an issue, please check here ____.) | Yes | No |
| Would you enter into a contract with them again? | Yes | No |
| Would you recommend them? | Yes | No |

Bidder must have a minimum of 6 “yes” answers on the questions above from three references (total of 18 “yes” answers) to be considered responsible and for its bid to be considered.

Score: Pass/Fail

| | | |
|---|-----|----|
| Do you have any business, professional or personal interest in the vendor’s organization? If yes, please explain. | Yes | No |
|---|-----|----|

A “yes” to the above question may result in an automatic disqualification of the provided reference; therefore, resulting in a score of zero as responses to previous questions become null and void.

Notes:

Called by: _____
Signature Title Date

Attachment E
REQUIRED CLAUSES FOR SERVICE CONTRACTS RESULTING FROM THIS IFB

1. Applicable Law: The contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws provisions, and any litigation with respect thereto shall be brought in the courts of the State. Contractor shall comply with applicable federal, state, and local laws and regulations.
2. Approval: It is understood that if this contract requires approval by the Public Procurement Review Board and/or the Mississippi Department of Finance and Administration Office of Personal Service Contract Review and this contract is not approved by the PPRB and/or OPSCR, it is void and no payment shall be made hereunder.
3. Availability of Funds: It is expressly understood and agreed that the obligation of the MDOC to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the MDOC, the MDOC shall have the right upon ten (10) working days written notice to Contractor, to terminate this agreement without damage, penalty, cost or expenses to the MDOC of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.
4. Compliance with Laws: Contractor understands that the State of Mississippi is an equal opportunity employer and therefore, maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful and Contractor agrees during the term of the agreement that Contractor will strictly adhere to this policy in its employment practices and provision of services. Contractor shall comply with, and all activities under this agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.
5. E-Payment: Contractor agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. The MDOC agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," which generally provides for payment of undisputed amounts by the MDOC within forty-five (45) days of receipt of invoice. Mississippi Code Annotated § 31-7-301 *et seq.*
6. E-Verification: If applicable, Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008, and will register and participate in the status verification system for all newly hired employees. Mississippi Code Annotated §§ 71-11-1 *et seq.* The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification

system” means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contractor agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, Contractor agrees to provide a copy of each such verification. Contractor further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject Contractor to the following:

- a. termination of this contract for services and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public;
- b. the loss of any license, permit, certification or other document granted to Contractor by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year; or,
- c. both.

In the event of such cancellation/termination, Contractor would also be liable for any additional costs incurred by the State due to Contract cancellation or loss of license or permit to do business in the State.

7. **Insurance.** Without limiting any liabilities or other obligations of Contractor, Contractor shall provide and maintain insurance coverage with forms and insurers acceptable to the MDOC until all obligations under this Contract are satisfied, as follows:

- a. **Workers’ Compensation** coverage as required by the State of Mississippi. The policy shall provide coverage for all states of operation that apply to the performance of the scope of work.
- b. **Commercial General Liability** insurance covers bodily injury, death, and property damage, including personal injury liability, products and completed operations.
 1. **Bodily Injury/Death:** \$1,000,000.00 per occurrence limit for any single claimant; and \$2,000,000.00 per occurrence limit for multiple claimants.
 2. **Property Damage:** \$1,000,000.00 per occurrence limit for any single claimant; and \$2,000,000.00 per occurrence limit for multiple claimants.
- c. **Professional Liability** insurance, with limits of one million dollars (\$1,000,000.00) for each claim.

Failure on the part of Contractor to procure and maintain the required liability insurance and provide proof thereof to the MDOC shall constitute a material breach of this agreement and the MDOC may terminate immediately. Fifteen (15) days prior to the commencement of this agreement, Contractor shall furnish the MDOC with an appropriately executed certificate of insurance. Such certificate shall identify this agreement and contain provisions that coverage afforded under the policies shall not be canceled, terminated or materially altered without at least thirty (30) days written notice to the MDOC. This written

notification shall be addressed to:

Deputy Commissioner of Administration & Finance
Mississippi Department of Corrections
301 North Lamar Street
Jackson, Mississippi 39201

8. Paymode: Payments by state agencies using the State's accounting system shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of Contractor's choice. The State may, at its sole discretion, require Contractor to electronically submit invoices and supporting documentation at any time during the term of this Agreement. Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency.
9. Procurement Regulations: The contract shall be governed by the applicable provisions of the *Public Procurement Review Board (PPRB) Office of Personal Service Contract Review (OPSCR) Rules and Regulations*, a copy of which is available at 501 North West Street, Suite 701E, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.DFA.ms.gov>.
10. Renewal of Contract: Upon written agreement of both parties at least 90 days prior to each contract anniversary date, MDOC reserves the right to renew the contract for up to two (2) successive one-year periods under the same prices, terms, and conditions as in the original contract. The total period of performance with renewals shall not exceed five (5) years.
11. Representation Regarding Contingent Fees: Contractor represents that it has not retained a person to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in Contractor's bid.
12. Representation Regarding Gratuities: Contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the *Public Procurement Review Board (PPRB) Office of Personal Service Contract Review (OPSCR) Rules and Regulations*.
13. Stop Work Order:
 - a. Order to Stop Work: The Chief Procurement Officer, may, by written order to Contractor at any time, and without notice to any surety, require Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to Contractor, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Chief Procurement Officer shall either:
 - i. cancel the stop work order; or,
 - ii. terminate the work covered by such order as provided in the Termination for Default

- clause or the Termination for Convenience clause of this contract.
- b. *Cancellation or Expiration of the Order:* If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or Contractor price, or both, and the contract shall be modified in writing accordingly, if:
 - i. the stop work order results in an increase in the time required for, or in Contractor's cost properly allocable to, the performance of any part of this contract; and,
 - ii. Contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the Chief Procurement Officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.
 - c. *Termination of Stopped Work:* If a stop work order is not canceled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.
 - d. *Adjustment of Price:* Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment clause of this contract.

14. Termination for Convenience:

- a. *Termination.* The MDOC Head or designee may, when the interests of the State so require, terminate this contract in whole or in part, for the convenience of the State. The MDOC Head or designee shall give written notice of the termination to Contractor specifying the part of the contract terminated and when termination becomes effective.
- b. *Contractor's Obligations.* Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination Contractor will stop work to the extent specified. Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The MDOC Head or designee may direct Contractor to assign Contractor's right, title, and interest under terminated orders or subcontracts to the State. Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

15. Termination for Default:

- a. *Default.* If Contractor refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in this contract or any extension thereof, or otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this contract, the MDOC Head or designee may notify Contractor in writing of the delay or nonperformance and if not cured in ten (10) days or any longer time specified in writing by the MDOC Head or designee, such officer may terminate Contractor's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the MDOC Head or designee may procure similar supplies or services in a manner and upon terms deemed appropriate by the MDOC Head or designee. Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.

- b. *Contractor's Duties.* Notwithstanding termination of the contract and subject to any directions from the Chief Procurement Officer, Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Contractor in which the State has an interest.
 - c. *Compensation.* Payment for completed services delivered and accepted by the State shall be at the contract price. The State may withhold from amounts due Contractor such sums as the MDOC Head or designee deems to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders and to reimburse the State for the excess costs incurred in procuring similar goods and services.
 - d. *Excuse for Nonperformance or Delayed Performance.* Except with respect to defaults of subcontractors, Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if Contractor has notified the MDOC Head or designee within 15 days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the State and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, Contractor shall not be deemed to be in default, unless the services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit Contractor to meet the contract requirements. Upon request of Contractor, the MDOC Head or designee shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, Contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the State under the clause entitled (in fixed-price contracts, "Termination for Convenience," in cost-reimbursement contracts, "Termination"). (As used in this Paragraph of this clause, the term "subcontractor" means subcontractor at any tier).
 - e. *Erroneous Termination for Default.* If, after notice of termination of Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contract was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Paragraph (d) (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the notice of termination had been issued pursuant to such clause.
 - f. *Additional Rights and Remedies.* The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this contract.
16. Termination Upon Bankruptcy: This contract may be terminated in whole or in part by MDOC upon written notice to Contractor, if Contractor should become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or upon the execution by Contractor of an assignment for the benefit of its creditors. In the event of such termination, Contractor shall be entitled to recover just and equitable compensation for satisfactory work

performed under this contract, but in no case shall said compensation exceed the total contract price.

17. Trade Secrets, Commercial and Financial Information: It is expressly understood that Mississippi law requires that the provisions of this contract which contain the commodities purchased or the personal or professional services provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret or confidential commercial or financial information and shall be available for examination, copying, or reproduction.
18. Transparency: This contract, including any accompanying exhibits, attachments, and appendices, is subject to the “Mississippi Public Records Act of 1983,” and its exceptions. See Mississippi Code Annotated §§ 25-61-1 *et seq.* and Mississippi Code Annotated § 79-23-1. In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Mississippi Code Annotated §§ 27-104-151 *et seq.* Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Mississippi Department of Finance and Administration’s independent MDOC contract website for public access at <http://www.transparency.mississippi.gov>. Information identified by Contractor as trade secrets, or other proprietary information, including confidential Contractor information or any other information which is required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.

Attachment F
OPTIONAL CLAUSES FOR USE IN SERVICE CONTRACTS
RESULTING FROM THIS IFB

1. Anti-Assignment/Subcontracting: Contractor acknowledges that it was selected by the State to perform the services required hereunder based, in part, upon Contractor's special skills and expertise. Contractor shall not assign, subcontract, or otherwise transfer this agreement, in whole or in part, without the prior written consent of the State, which the State may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer of its obligations without such consent shall be null and void. No such approval by the State of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the State in addition to the total fixed price agreed upon in this agreement. Subcontracts shall be subject to the terms and conditions of this agreement and to any conditions of approval that the State may deem necessary. Subject to the foregoing, this agreement shall be binding upon the respective successors and assigns of the parties.
2. Antitrust: By entering into a contract, Contractor conveys, sells, assigns, and transfers to the MDOC all rights, titles, and interest it may now have, or hereafter acquire, under the antitrust laws of the United States and the State that relate to the particular goods or services purchased or acquired by the MDOC under said contract.
3. Attorney's Fees and Expenses: Subject to other terms and conditions of this agreement, in the event Contractor defaults in any obligations under this agreement, Contractor shall pay to the State all costs and expenses (including, without limitation, investigative fees, court costs, and attorney's fees) incurred by the State in enforcing this agreement or otherwise reasonably related thereto. Contractor agrees that under no circumstances shall the customer be obligated to pay any attorney's fees or costs of legal action to Contractor.
4. Authority to Contract: Contractor warrants: (a) that it is a validly organized business with valid authority to enter into this agreement; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; and, (d) notwithstanding any other provision of this agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.
5. Change in Scope of Work: The MDOC may order changes in the work consisting of additions, deletions, or other revisions within the general scope of the contract. No claims may be made by Contractor that the scope of the project or of Contractor's services has been changed, requiring changes to the amount of compensation to Contractor or other adjustments to the contract, unless such changes or adjustments have been made by written amendment to the contract signed by the MDOC and Contractor.

If Contractor believes that any particular work is not within the scope of the project, is a material change, or will otherwise require more compensation to Contractor, Contractor must

immediately notify the MDOC in writing of this belief. If the MDOC believes that the particular work is within the scope of the contract as written, Contractor will be ordered to and shall continue with the work as changed and at the cost stated for the work within the contract.

6. Claims Based on a Procurement Officer's Actions or Omissions:

- a. *Notice of Claim.* If any action or omission on the part of a Chief Procurement Officer or designee of such officer requiring performance changes within the scope of the contract constitutes the basis for a claim by Contractor for additional compensation, damages, or an extension of time for completion, Contractor shall continue with performance of the contract in compliance with the directions or orders of such officials, but by so doing, Contractor shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:
 - i. Contractor shall have given written notice to the Chief Procurement Officer or designee of such officer:
 - (1) prior to the commencement of the work involved, if at that time Contractor knows of the occurrence of such action or omission;
 - (2) within 30 days after Contractor knows of the occurrence of such action or omission, if Contractor did not have such knowledge prior to the commencement of the work; or,
 - (3) within such further time as may be allowed by the Chief Procurement Officer in writing.This notice shall state that Contractor regards the act or omission as a reason which may entitle Contractor to additional compensation, damages, or an extension of time. The Chief Procurement Officer or designee of such officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Chief Procurement Officer or designee of such officer;
 - ii. The notice required by subparagraph (a) of this paragraph describes, as clearly as practicable at the time, the reasons why Contractor believes that additional compensation, damages, or an extension of time may be remedies to which Contractor is entitled; and,
 - iii. Contractor maintains and, upon request, makes available to the Chief Procurement Officer within a reasonable time, detailed records to the extent practicable, of the claimed additional costs or basis for an extension of time in connection with such changes.
- b. *Limitation of Clause.* Nothing contained herein shall excuse Contractor from compliance with any rules of law precluding state officers and Contractors from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the contract.
- c. *Adjustment of Price.* Any adjustment in the contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment clause of this contract.

7. Information Designated by Contractor as Confidential: Any disclosure of those materials, documents, data, and other information which Contractor has designated in writing as proprietary and confidential shall be subject to the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1. As provided in the contract, the personal or professional services to

be provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret, or confidential commercial or financial information.

Any liability resulting from the wrongful disclosure of confidential information on the part of Contractor or its subcontractor shall rest with Contractor. Disclosure of any confidential information by Contractor or its subcontractor without the express written approval of the MDOC shall result in the immediate termination of this agreement.

8. Confidentiality: Notwithstanding any provision to the contrary contained herein, it is recognized that MDOC is a public MDOC of the State of Mississippi and is subject to the Mississippi Public Records Act. Mississippi Code Annotated §§ 25-61-1 *et seq.* If a public records request is made for any information provided to MDOC pursuant to the agreement and designated by the Contractor in writing as trade secrets or other proprietary confidential information, MDOC shall follow the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1 before disclosing such information. The MDOC shall not be liable to the Contractor for disclosure of information required by court order or required by law.
9. Contractor Personnel: The MDOC shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff or subcontractors assigned to the work by Contractor. If the MDOC reasonably rejects staff or subcontractors, Contractor must provide replacement staff or subcontractors satisfactory to the MDOC in a timely manner and at no additional cost to the MDOC. The day-to-day supervision and control of Contractor's employees and subcontractors is the sole responsibility of Contractor.
10. Debarment and Suspension: Contractor certifies to the best of its knowledge and belief, that it:
 - a. is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any federal department or MDOC or any political subdivision or MDOC of the State of Mississippi;
 - b. has not, within a three-year period preceding this bid, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction;
 - c. has not, within a three-year period preceding this bid, been convicted of or had a civil judgment rendered against it for a violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - d. is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of these offenses enumerated in paragraphs two (b) and (c) of this certification; and,
 - e. has not, within a three-year period preceding this bid, had one or more public transactions (federal, state, or local) terminated for cause or default.
11. Disclosure of Confidential Information: In the event that either party to this agreement receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of confidential or otherwise protected information that

party shall promptly inform the other party and thereafter respond in conformity with such subpoena to the extent mandated by law. This section shall survive the termination or completion of this agreement. The parties agree that this section is subject to and superseded by Mississippi Code Annotated §§ 25-61-1 *et seq.*

12. Exceptions to Confidential Information: Contractor and the State shall not be obligated to treat as confidential and proprietary any information disclosed by the other party (“disclosing party”) which:
 - a. is rightfully known to the recipient prior to negotiations leading to this agreement, other than information obtained in confidence under prior engagements;
 - b. is generally known or easily ascertainable by nonparties of ordinary skill in the business of the customer;
 - c. is released by the disclosing party to any other person, firm, or entity (including governmental agencies or bureaus) without restriction;
 - d. is independently developed by the recipient without any reliance on confidential information;
 - e. is or later becomes part of the public domain or may be lawfully obtained by the State or Contractor from any nonparty; or,
 - f. is disclosed with the disclosing party’s prior written consent.
13. Errors in Extension: If the unit price and the extension price are at variance, the unit price shall prevail.
14. Failure to Deliver: In the event of failure of Contractor to deliver services in accordance with the contract terms and conditions, the MDOC, after due oral or written notice, may procure the services from other sources and hold Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the MDOC may have.
15. Failure to Enforce: Failure by the MDOC at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the MDOC to enforce any provision at any time in accordance with its terms.
16. Final Payment: Upon satisfactory completion of the work performed under this contract, as a condition before final payment under this contract, or as a termination settlement under this contract, Contractor shall execute and deliver to the MDOC a release of all claims against the State arising under, or by virtue of, the contract, except claims which are specifically exempted by Contractor to be set forth therein. Unless otherwise provided in this contract, by state law, or otherwise expressly agreed to by the parties in this contract, final payment under the contract or settlement upon termination of this contract shall not constitute waiver of the State’s claims against Contractor under this contract.
17. Force Majeure: Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes,

lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters (“force majeure events”). When such a cause arises, Contractor shall notify the State immediately in writing of the cause of its inability to perform, how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to force majeure events shall automatically extend such dates for a period equal to the duration of the delay caused by such events, unless the State determines it to be in its best interest to terminate the agreement.

18. HIPAA Compliance: Contractor agrees to comply with the “Administrative Simplification” provisions of the Health Insurance Portability and Accountability Act of 1996, including electronic data interchange, code sets, identifiers, security, and privacy provisions, as may be applicable to the services under this contract.

Contractor represents and warrants that it shall have in place and maintain all required means to protect the information and report within twenty-four (24) hours any confirmed breach of such information. Contractor shall be responsible and liable for any confirmed breach and any resulting damages which arise during the term of this Contract including indemnifying and holding harmless the MDOC from any claim which arises.

19. Indemnification: To the fullest extent allowed by law, Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate the MDOC, its commissioners, board members, officers, employees, agents, and representatives, and the State of Mississippi from and against all claims, demands, liabilities, suits, actions, damages, losses, and costs of every kind and nature whatsoever including, without limitation, court costs, investigative fees and expenses, and attorney’s fees, arising out of or caused by Contractor and/or its partners, principals, agents, employees and/or subcontractors in the performance of or failure to perform this agreement. In the State’s sole discretion upon approval of the Office of the Mississippi Attorney General, Contractor may be allowed to control the defense of any such claim, suit, etc. In the event Contractor defends said claim, suit, etc., Contractor shall use legal counsel acceptable to the Office of the Mississippi Attorney General. Contractor shall be solely responsible for all costs and/or expenses associated with such defense, and the State shall be entitled to participate in said defense. Contractor shall not settle any claim, suit, etc. without the concurrence of the Office of the Mississippi Attorney General, which shall not be unreasonably withheld.
20. Independent Contractor Status: Contractor shall, at all times, be regarded as and shall be legally considered an independent contractor and shall at no time act as an agent for the State. Nothing contained herein shall be deemed or construed by the State, Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint ventures, employer and employee, or any similar such relationship between the State and Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the State or Contractor hereunder creates, or shall be deemed to create a relationship other than the independent relationship of the State and Contractor. Contractor’s personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the State. Neither Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of the MDOC, and the MDOC

shall be at no time legally responsible for any negligence or other wrongdoing by Contractor, its servants, agents, or employees. The MDOC shall not withhold from the contract payments to Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to Contractor. Further, the MDOC shall not provide to Contractor any insurance coverage or other benefits, including Worker's Compensation, normally provided by the State for its employees.

21. Infringement Indemnification: Contractor warrants that the materials and deliverables provided to the customer under this agreement, and their use by the customer, will not infringe or constitute an infringement of any copyright, patent, trademark, or other proprietary right. Should any such items become the subject of an infringement claim or suit, Contractor shall defend the infringement action and/or obtain for the customer the right to continue using such items. Should Contractor fail to obtain for the customer the right to use such items, Contractor shall suitably modify them to make them non-infringing or substitute equivalent software or other items at Contractor's expense. In the event the above remedial measures cannot possibly be accomplished, and only in that event, Contractor may require the customer to discontinue using such items, in which case Contractor will refund to the customer the fees previously paid by the customer for the items the customer may no longer use, and shall compensate the customer for the lost value of the infringing part to the phase in which it was used, up to and including the contract price for said phase. Said refund shall be paid within ten (10) working days of notice to the customer to discontinue said use.

Scope of Indemnification: Provided that the State promptly notifies Contractor in writing of any alleged infringement claim of which it has knowledge, Contractor shall defend, at its own expense, the State against, and pay all costs, damages and attorney fees that a court finally awards for infringement based on the programs and deliverables provided under this agreement.

22. Integrated Agreement/Merger: This agreement, including all contract documents, represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations or agreements, irrespective of whether written or oral. This agreement may be altered, amended, or modified only by a written document executed by the State and Contractor. Contractor acknowledges that it has thoroughly read all contract documents and has had the opportunity to receive competent advice and counsel necessary for it to form a full and complete understanding of all rights and obligations herein. Accordingly, this agreement shall not be construed or interpreted in favor of or against the State or Contractor on the basis of draftsmanship or preparation hereof.

23. Liquidated Damages:

Contractor is responsible for providing the services required in this Contract. Liquidated damages may be charged for each occasion that guard service personnel are verified to have done the following:

1. Abandoning post;
2. Failure to assume custody of an inmate at a scheduled clinic visit or hospital admission. A fee of \$10.00 for every 15 minutes of delay will be assessed against Contractor;

3. Sleeping on the job;
4. Not meeting the required training, certification and background checks as required in this agreement;
5. Escape of an inmate because of negligence by Contractor's security guard personnel. Contractor will be responsible for all costs of capture and extradition of the inmate back to the custody of MDOC;
6. Failure of security guard personnel to arrive at assigned post at the designated time, fees will be assessed at the overtime rate of Correctional Officer IV;
7. Any forms of sexual misconduct by security guard personnel;
8. Allowing inmates in their custody to have visitors, to make telephone calls, receive packages and/or jeopardizing public safety as determined by MDOC;
9. Not meet the required availability time or if a security guard personnel exceeds the maximum time on post within a 24-hour time period.

24.1 Amount of Liquidated Damages. Liquidated damages may be assessed by MDOC against Contractor at the rate of two thousand dollars (\$2,000.00) for each time it is verified that security guard personnel has committed one of the offenses contained in Section 24. In no case will liquidated damages be less than fifty dollars (\$50.00) for any of the offenses contained in Section 24 with the exception of items 2, 5 and 6. Contractor shall pay the liquidated damages to MDOC within thirty (30) days of receiving written notice from MDOC that a violation has occurred. If not paid within thirty (30) days, MDOC shall have the right to deduct for the current invoice the stated liquidated damages.

24. Modification or Renegotiation: This agreement may be modified only by written agreement signed by the parties hereto. The parties agree to renegotiate the agreement if federal and/or state revisions of any applicable laws or regulations make changes in this agreement necessary.
25. No Limitation of Liability: Nothing in this agreement shall be interpreted as excluding or limiting any tort liability of Contractor for harm caused by the intentional or reckless conduct of Contractor or for damages incurred through the negligent performance of duties by Contractor or the delivery of products that are defective due to negligent construction.
26. Notices: All notices required or permitted to be given under this agreement must be in writing and personally delivered or sent by certified United States mail, postage prepaid, return receipt requested, to the party to whom the notice should be given at the address set forth below. Notice shall be deemed given when actually received or when refused. The parties agree to promptly notify each other in writing of any change of address.

| | |
|------------------------------|--------------------|
| For the MDOC: | For Contractor: |
| Burl Cain, Commissioner | [Name, Title] |
| MS Department of Corrections | [Contractor Name] |
| 301 North Lamar Street | [Address] |
| Jackson, MS 39201 | [City, State, Zip] |

27. Oral Statements: No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this contract. All modifications to the contract must be made in writing by the MDOC and agreed to by Contractor.
28. Ownership of Documents and Work Papers: Agency shall own all documents, files, reports, work papers and working documentation, electronic or otherwise, created in connection with the project which is the subject of this agreement, except for Contractor's internal administrative and quality assurance files and internal project correspondence. Contractor shall deliver such documents and work papers to Agency upon termination or completion of the agreement. The foregoing notwithstanding, Contractor shall be entitled to retain a set of such work papers for its files. Contractor shall be entitled to use such work papers only after receiving written permission from Agency and subject to any copyright protections.
29. Patents and Royalties: Contractor covenants to save, defend, keep harmless, and indemnify the Agency and all of its officers, departments, agencies, agents, and employees from and against all claims, loss, damage, injury, fines, penalties, and cost--including court costs and attorney's fees, charges, liability, and exposure, however caused--for or on account of any copyright or patented or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by the Agency. If Contractor uses any design, device, or material covered by patent or copyright, it is mutually agreed and understood without exception that the contract price includes all royalties or costs arising from the use of such design, device, or materials in any way in the work.
31. Price Adjustment:
- a. *Price Adjustment Methods*. Any adjustments in contract price, pursuant to a clause in this contract, shall be made in one or more of the following ways:
 - i. by agreement on a fixed price adjustment before commencement of the additional performance;
 - ii. by unit prices specified in the contract;
 - iii. by the costs attributable to the event or situation covered by the clause, plus appropriate profit or fee, all as specified in the contract; or,
 - iv. by the price escalation clause.
 - b. *Submission of Cost or Pricing Data*. Contractor shall provide cost or pricing data for any price adjustments subject to the provisions of Section 3-403 (Cost or Pricing Data) of the *Public Procurement Review Board (PPRB) Office of Personal Service Contract Review (OPSCR) Rules and Regulations*.
30. Priority: The contract consists of this agreement with exhibits, the IFB RFX: 3160004471 (hereinafter referred to as "IFB" and attached as Schedule A[____]), and the bid dated [date] by [Contractor Name] (hereinafter referred to as "Bid" and attached as Schedule A[____]). Any ambiguities, conflicts or questions of interpretation of this contract shall be resolved by first, reference to this agreement with exhibits and, if still unresolved, by reference to the IFB and, if still unresolved, by reference to the Bid. Omission of any term or obligation from this agreement or attached Schedules [____] or [____] shall not be deemed an omission from this contract if such term or obligation is provided for elsewhere in this contract.

31. Quality Control: Contractor shall institute and maintain throughout the contract period a properly documented quality control program designed to ensure that the services are provided at all times and in all respects in accordance with the contract. The program shall include providing daily supervision and conducting frequent inspections of Contractor's staff and ensuring that accurate records are maintained describing the disposition of all complaints. The records so created shall be open to inspection by the MDOC.
32. Record Retention and Access to Records: Provided Contractor is given reasonable advance written notice and such inspection is made during normal business hours of Contractor, the State or any duly authorized representatives shall have unimpeded, prompt access to any of Contractor's books, documents, papers, and/or records which are maintained or produced as a result of the project for the purpose of making audits, examinations, excerpts, and transcriptions. All records related to this agreement shall be retained by Contractor for ten (10) years after final payment is made under this agreement and all pending matters are closed; however, if any audit, litigation or other action arising out of or related in any way to this project is commenced before the end of the ten (10) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the ten (10) year period, whichever is later.
33. Recovery of Money: Whenever, under the contract, any sum of money shall be recoverable from or payable by Contractor to the MDOC, the same amount may be deducted from any sum due to Contractor under the contract or under any other contract between Contractor and the MDOC. The rights of the MDOC are in addition and without prejudice to any other right the MDOC may have to claim the amount of any loss or damage suffered by the MDOC on account of the acts or omissions of Contractor.
34. Requirements Contract: During the period of the contract, Contractor shall provide all the service described in the contract. Contractor understands and agrees that this is a requirements contract and that the Agency shall have no obligation to Contractor if no services are required. Any quantities that are included in the scope of work reflect the current expectations of the Agency for the period of the contract. The amount is only an estimate and Contractor understands and agrees that the Agency is under no obligation to Contractor to buy any amount of the services as a result of having provided this estimate or of having any typical or measurable requirement in the past. Contractor further understands and agrees that the Agency may require services in an amount less than or in excess of the estimated annual contract amount and that the quantity actually used, whether in excess of the estimate or less than the estimate, shall not give rise to any claim for compensation other than the total of the unit prices in the contract for the quantity actually used.
35. Right to Audit: Contractor shall maintain such financial records and other records as may be prescribed by the MDOC or by applicable federal and state laws, rules, and regulations. Contractor shall retain these records for a period of ten (10) years after final payment, or until they are audited by the MDOC, whichever event occurs first. These records shall be made available during the term of the contract and the subsequent three-year period for examination, transcription, and audit by the Mississippi State Auditor's Office, its designees, or other authorized bodies.

36. Severability: If any part of this agreement is declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the agreement that can be given effect without the invalid or unenforceable provision, and to this end the provisions hereof are severable. In such event, the parties shall amend the agreement as necessary to reflect the original intent of the parties and to bring any invalid or unenforceable provisions in compliance with applicable law.
37. State Property: Contractor will be responsible for the proper custody and care of any state-owned property furnished for Contractor's use in connection with the performance of this agreement. Contractor will reimburse the State for any loss or damage, normal wear and tear excepted.
38. Third Party Action Notification: Contractor shall give the customer prompt notice in writing of any action or suit filed, and prompt notice of any claim made against Contractor by any entity that may result in litigation related in any way to this Contract.
39. Unsatisfactory Work. If, at any time during the contract term, the service performed or work done by Contractor is considered by the MDOC to create a condition that threatens the health, safety, or welfare of the citizens and/or employees of the State of Mississippi, Contractor shall, on being notified by the MDOC, immediately correct such deficient service or work. In the event Contractor fails, after notice, to correct the deficient service or work immediately, the MDOC shall have the right to order the correction of the deficiency by separate contract or with its own resources at the expense of Contractor.
40. Waiver: No delay or omission by either party to this agreement in exercising any right, power, or remedy hereunder or otherwise afforded by contract, at law, or in equity shall constitute an acquiescence therein, impair any other right, power or remedy hereunder or otherwise afforded by any means, or operate as a waiver of such right, power, or remedy. No waiver by either party to this agreement shall be valid unless set forth in writing by the party making said waiver. No waiver of or modification to any term or condition of this agreement will void, waive, or change any other term or condition. No waiver by one party to this agreement of a default by the other party will imply, be construed as or require waiver of future or other defaults.

Attachment G
IFB Exception(s)

IFB RFx: 3160004471
IFB - Guard Services

Bidder taking exception to any part or section of the solicitation shall indicate such exceptions on the table below. If no exceptions are taken, then the Bidder shall state in this section “No Exceptions Taken.” Failure to indicate any exception will be interpreted as the Bidder’s intent to comply fully with the requirements as written. Conditional or qualified bids, unless specifically allowed, shall be subject to rejection in whole or in part.

| Procurement Section and Page Number | | Original Language | Requested Change/Exception | MDOC Decision |
|--|--|--------------------------|---------------------------------------|--------------------------|
| 1. | | | | |
| 2. | | | | |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |

Attachment H

MDOC Facilities

STATE FACILITIES

Mississippi State Penitentiary
590 Parchman Road 12, Parchman, MS 38738

Central Mississippi Correctional Facility
3794 Hwy 468, Pearl, MS 39208

South Mississippi Correctional Institution
2689 Hwy 63 North, Leakesville, MS 39451

Marshall County Correctional Facility
833 West Street, Holly Springs, MS 38635

Walnut Grove Correctional Facility
1650 Hwy 492, Walnut Grove, MS 39189

PRIVATE FACILITIES

East Mississippi Correctional Facility
10641 Hwy 80 West, Meridian, MS 39307

Wilkinson County Correctional Facility
20999 US Hwy 61, Woodville, MS 39669

REGIONAL FACILITIES

Alcorn County Regional Correctional Facility
2839 South Harper Road, Corinth, MS 38834

Bolivar County Regional Correctional Facility
2792 Hwy 8 West, Cleveland, MS 38732

Carroll Montgomery County
Regional Correctional Facility
33714 MS Hwy 35, Vaiden, MS 39176

Chickasaw County Regional
Correctional Facility
120 Lancaster Circle, Houston, MS 38851

George County Regional Correctional Facility
154 Industrial Park Road,
Lucedale, MS 39452

Holmes-Humphreys County Regional
Correctional Facility
23234 Hwy 12 E., Lexington, MS 39095

REGIONAL FACILITIES (Cont.)

Issaquena County Correctional Facility
22746 MS-1, Mayersville, MS 39113

Jefferson-Franklin County
Regional Correctional Facility
279 MS-33, Fayette, MS 39069

Kemper Neshoba Regional County
Correctional Facility
374 Stennis Industrial Park Road
DeKalb, MS 39328

Leake County Correctional Facility
399 C. O. Brooks Street, Carthage, MS 39051

Marion-Walthall County Correctional Facility
503 South Main Street, Columbia, MS 39429

Stone County Correctional Facility
1420 Industrial Park Road,
Wiggins, MS 39577

Washington County Regional
Correctional Facility
60 Stokes King Road, Greenville, MS 38701

Winston-Choctaw
Regional Correctional Facility
22062 Hwy 25 North,
Louisville, MS 39339

Yazoo County Regional Correctional Facility
154 Roosevelt Hudson Dr.
Yazoo City, MS 39194

RESTITUTION CENTERS

Flowood CWC/ Restitution Center
1632 Hwy 80 E., Flowood, MS 39232

Greenwood Restitution Center
(Location Delta)
3800 Baldwin Drive CR 840
Greenwood, MS 38930

COMMUNITY WORK CENTERS (CWC)

Delta CF-CWC/TVC/Restitution Center-RC
3800 Baldwin Drive CR 840, Greenwood, MS
38930

Flowood Community Work Center
1632 HWY 80 E., Flowood, MS 39232

Forrest County CWC
112 Alcorn Avenue, Hattiesburg, MS 39401

Madison County CWC
140 Corrections Drive, Madison, MS 39110

Noxubee County CWC
212 Industrial Park Road, Macon, MS 39341

Pike County CWC
2015 Jesse Hall Road Magnolia, MS 39652

Quitman County CWC
201 Camp B Road, Lambert, MS 38643

Wilkinson County CWC
84 Prison Lane, Woodville, MS 39669

COUNTY JAILS*

***Statewide**

NOTE: *Bidder understands that the number of MDOC facilities servicing is subject to change. Consequently, Bidder agrees to add any new MDOC facility.*

Attachment I
Acknowledgement of Amendments

IFB RFx: 3160004471
IFB for Guard Services

I hereby acknowledge receipt of the following amendments and understand that such amendments are incorporated into the Bid Packet and will become a part of any resulting contract.

List date and title/number of all amendments: (Write “None” if applicable)

1. _____
2. _____
3. _____
4. _____
5. _____

Signature

Printed Name

Title

Date

Attachment J

IFB RFX: 3160004471

IFB - Guard Services

BUSINESS ASSOCIATES AGREEMENT

WHEREAS, _____ (“Business Associate”) and Mississippi Department of Corrections (“Covered Entity”) have entered into a written agreement (the “Services Agreement”), whereby Business Associate provides certain services (“Services”) for or on behalf of Covered Entity; and

WHEREAS, Business Associate and Covered Entity desire to enter into this Agreement in order to comply with the national standards for the privacy of individually identifiable Protected Health Information adopted by the Department of Health and Human Services (“DHHS”) pursuant to the Health Insurance Portability and Accountability Act of 1996, as published in a final rule dated December 28, 2000, and final rule modifications effective October 15, 2002, and as further modified by the Health Information Technology for Economic and Clinical Health provisions of the American Recovery and Reinvestment Act of 2009 (as may be now or hereafter amended or modified, “HIPAA”).

NOW THEREFORE, in consideration of the mutual promises herein contained, it is agreed as follows:

1. Definitions. For purposes of this Agreement, the terms “Business Associate,” “Individual,” “Use,” “Disclosure,” and “Protected Health Information,” and other terms used, but not otherwise defined in this Agreement, shall have the respective meanings ascribed to those terms in HIPAA.

2. Parameters of Business Relationship. In performing Services for or on behalf of Covered Entity pursuant to the Services Agreement, Business Associate will be provided with and have access to individually identifiable Protected Health Information. Business Associate will Use all such Protected Health Information solely in the performance of Services for or on behalf of Covered Entity, in accordance with the terms of this Agreement, and Business Associate shall limit and regulate all Uses and Disclosures of all such Protected Health Information in accordance with the terms of this Agreement. Business Associate may Use and Disclose Protected Health Information as necessary for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate (collectively, “Business Associate’s Operations”). Business Associate may Disclose Protected Health Information as necessary for Business Associate’s Operations only if: (a) the Disclosure is required by law; or (b) Business Associate obtains reasonable assurance from any person or organization to whom Business Associate will Disclose such Protected Health Information that the person or organization will (1) hold such Protected Health Information in confidence and Use or further Disclose it only for the purpose for which Business Associate Disclosed it to the person or organization as required by law; and (2) notify Business Associate of any instance of which the person or organization becomes aware in which the confidentiality of such Protected Health Information was breached.

3. Duties of Business Associate. Business Associate agrees to comply in all material respects with HIPAA when Using or Disclosing Protected Health Information received by Business Associate from or on behalf of Covered Entity including:

a. Business Associate will not Use or Disclose Protected Health Information received from Covered Entity in any way other than permitted or required by this Agreement. Business Associate may Use or Disclose Protected Health Information as otherwise required by law.

b. Business Associate will exercise appropriate safeguards to prevent Use or Disclosure of Protected Health Information other than as necessary for Business Associate to perform its obligations under the Services Agreement.

c. Business Associate will promptly report to Covered Entity any Use or Disclosure of Protected Health Information which is not permitted or required by this Agreement or law and take such actions available as may be reasonably necessary to correct such Use or Disclosure. Business Associate's report of any such Uses or Disclosures shall be to the person who executed this Agreement for Covered Entity, or other individual who may be designated by written notice to Business Associate.

d. Business Associate will ensure that any and all subcontractors or agents to whom Business Associate Discloses Protected Health Information received from or on behalf of Covered Entity agree, in writing, to be bound by the same restrictions, conditions and duties that apply to Business Associate with respect to such information.

e. Business Associate will maintain appropriate procedures by which Individuals are granted access to their Protected Health Information. Such access must be granted in accordance with HIPAA.

f. Business Associate will make its internal policies and procedures, and its books and records relating to Uses and Disclosures of Protected Health Information received from Covered Entity or created or received by the Business Associate on behalf of Covered Entity, available to the Covered Entity or to the Secretary of DHHS for purposes of determining Business Associate's and Covered Entity's compliance with HIPAA.

g. When notified by Covered Entity, Business Associate will make available Protected Health Information for amendment and incorporate any amendments or corrections to Protected Health Information maintained by Business Associate in compliance with HIPAA.

h. Upon request from Covered Entity, Business Associate will provide to Covered Entity an accounting of all Business Associate's Disclosures of Protected Health Information received from or on behalf of Covered Entity, except for Disclosures made to the Individual who is the subject of the Protected Health Information; Disclosures for treatment, payment and health care operations purposes (unless Business Associate maintains Protected Health Information in an electronic health record, and in such case, Business Associate will provide an accounting of these Disclosures as well); Disclosures for national security,

intelligence, correctional or law enforcement purposes; and Disclosures otherwise excluded from the accounting requirements pursuant to 45 C.F.R. § 164.528. Business Associate will provide the accounting to Covered Entity as promptly as possible after Covered Entity's request therefore. Business Associate shall provide for a means of accounting for Disclosures for as long as Business Associate maintains Protected Health Information received from or on behalf of Covered Entity.

i. Business Associate will implement administrative, physical, and technical safeguards in accordance with HIPAA that reasonably and appropriately protect the confidentiality, integrity, and availability of Protected Health Information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.

j. Business Associate will develop appropriate policies and procedures to implement such administrative, physical, and technical safeguards in accordance with HIPAA that reasonably and appropriately protect the confidentiality, integrity, and availability of Protected Health Information that it creates, receives, maintains, or transmits on behalf of the Covered Entity, and shall comply with the applicable provisions of the HIPAA Security Rule with respect to any electronic Protected Health Information that Business Associate receives, maintains or transmits on behalf of Covered Entity.

k. Business Associate will request and Use or Disclose only the minimum amount of Protected Health Information necessary to serve the intended purposes of this Agreement.

l. Business Associate will report to Covered Entity any breach of Unsecured Protected Health Information in accordance with 45 C.F.R. § 164 Subpart D.

m. In the event Business Associate undertakes any obligations of Covered Entity under the HIPAA Privacy Rule, Business Associate shall comply with the HIPAA regulations applicable to Covered Entity in the discharge of such obligations.

n.

4. Duties of Covered Entity. Covered Entity agrees to comply in all respects with HIPAA when Using or Disclosing Protected Health Information including:

a. Provide Business Associate with any changes in, or revocation of, permission by Individual to Use or Disclose Protected Health Information, if such changes affect Business Associate's permitted or required Uses and Disclosures;

b. Notify Business Associate of any restriction to the Use or Disclosure of Protected Health Information that Covered Entity has agreed to in accordance with HIPAA; and

c. Not request Business Associate to Use or Disclose Protected Health Information in any manner that would not be permissible under HIPAA if done by Covered Entity, unless such Use or Disclosure is included in the Services to be performed pursuant to this Agreement and is for data aggregation or management and administrative activities of Business Associate.

5. Cooperation. Each party shall cooperate in good faith in all respects with the other party in connection with any request by a federal or state governmental authority for additional information and documents or any governmental investigation, complaint, action or other inquiry.

6. Term; Termination.

- a. This Agreement shall commence on the date first written above and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section 6.
- b. If either party knows of a pattern of activity or practice of the other party that constitutes a material breach or violation of this Agreement then the non-breaching party shall provide written notice of the breach or violation to the other party that specifies the nature of the breach or violation. The breaching party must cure the breach or end the violation on or before thirty (30) days after receipt of the written notice. In the absence of a cure reasonably satisfactory to the non-breaching party within the specified timeframe, or in the event the breach is reasonable incapable of cure, then the non-breaching party may do the following:
 - if feasible, immediately terminate this Agreement and the Services Agreement; or
 - if neither termination of the Services Agreement nor cure are feasible, report the issue to DHHS.
- c. Notwithstanding any other provisions of this Agreement, this Agreement shall automatically terminate upon termination of the Services Agreement in accordance with its terms.
- d. Within sixty (60) days after the expiration or termination for any reason of the Services Agreement and/or this Agreement, Business Associate shall return or destroy all Protected Health Information, if feasible to do so, including all Protected Health Information in possession of Business Associate's agents or subcontractors.
- e. In the event that Business Associate determines that return or destruction of the Protected Health Information is not feasible, Business Associate shall notify Covered Entity in writing and may retain the Protected Health Information subject to this Section 6. Under any circumstances, Business Associate shall extend any and all protections, limitations and restrictions contained in this Agreement to Business Associate's use and/or disclosure of any Protected Health Information retained after the expiration or termination of the Agreement and/or the underlying business relationship, and shall limit any further uses and/or disclosures solely to the purposes that make return or destruction of the Protected Health Information infeasible.

7. **Change of Law.** In the event any state or federal laws or regulations now existing or enacted or promulgated after the effective date of this Agreement, are interpreted by judicial decision, a regulatory agency or legal counsel to a party hereto in such a manner as to indicate that any provision of this Agreement may be in violation of such laws or regulations, the parties may amend this Agreement as necessary to comply with such laws and regulations. To the maximum extent possible, any such amendment shall preserve the underlying rights, duties and obligations established in this Agreement.

8. **General Provisions.**

a. **Notices.** Any and all notices or other communications required or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have been delivered when given in the manner set forth below to the following addresses or fax numbers:

If to Business Associate:

If to Covered Entity:

Mississippi Department of Corrections
301 North Lamar Street
Jackson, MS 39201
ATTN: Legal Department
Phone: (601) 359-5600
Fax: (601) 359-5293

Counsel to a party may give notice on behalf of a party. Such communications shall be deemed to have been given (a) three days after mailing, when mailed by registered or certified postage-paid mail, (b) on the next business day, when delivered by a same-day or overnight national courier service or the U.S. Post Office Express Mail or (c) upon the date of receipt by the addressees when delivered personally or by fax. A party must receive a notice of change of address for it to be effective.

b. **Entire Agreement; Amendment.** This writing constitutes the entire and only agreement of the parties with respect to HIPAA and supersedes any and all prior negotiations, understandings and agreements concerning the obligations regarding the Use and Disclosure of Protected Health Information; provided, however, if any written agreement between the parties imposes obligations and restrictions on Business Associate regarding Protected Health Information over and

above those imposed by this agreement, those obligations and restrictions are not superseded hereby and shall survive. This Agreement may be amended, modified, superseded, canceled, renewed or extended only by a written instrument executed by the parties herein.

c. **Waiver.** The failure by any party at any time to require performance or compliance by another of any of its obligations or agreements shall in no way affect the right to require such performance or compliance at any time thereafter. The waiver by any party of a breach of any provision hereof shall not be taken or held to be a waiver of any preceding or succeeding breach of such provision or as a waiver of the provision itself. No waiver of any kind shall be effective or binding, unless it is in writing and is signed by the party against which such waiver is sought to be enforced.

d. **Binding Nature.** This Agreement shall be binding upon and inure to the benefit of each party hereto, its successors and permitted assigns.

e. **Assignment.** Neither party may assign or otherwise transfer its rights or obligations under this Agreement, by operation of law or otherwise, without the prior written consent of the other party to this Agreement.

f. **Captions; Language.** The section headings contained in this Agreement are for the purposes of convenience only and are not intended to define or limit the contents of such sections. In this Agreement, unless the context requires otherwise, the singular includes the plural, the plural the singular, and the word “or” is used in the inclusive sense.

g. **Counterparts.** This Agreement may be executed in one or more counterparts, all of which taken together shall be deemed to evidence one and the same agreement.

h. **Applicable Law.** This Agreement and its validity, construction, and performance shall be governed in all respects by the laws of the State of Mississippi and by HIPAA.

[Signatures Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year last written below.

BUSINESS ASSOCIATE:

Date: _____

COVERED ENTITY:

MISSISSIPPI DEPARTMENT OF CORRECTIONS

By: _____
Burl Cain, Commissioner

Date: _____

ATTACHMENT K

Mississippi Department of Corrections Pricing Matrix by Region

| Regions | City | Region | Total Admissions | % of Admissions | Total Hours | Rate | Total Pricing |
|--------------------|------|--------|------------------|-----------------|----------------|------|---------------|
| Total Central | | | 460 | 57.50% | 121,518 | \$ - | \$ - |
| Total Coastal | | | 76 | 9.50% | 20,077 | \$ - | \$ - |
| Total East Central | | | 4 | 0.50% | 1,057 | \$ - | \$ - |
| Total North Delta | | | 40 | 5.00% | 10,567 | \$ - | \$ - |
| Total North East | | | 36 | 4.50% | 9,510 | \$ - | \$ - |
| Total Pine Belt | | | 72 | 9.00% | 19,020 | \$ - | \$ - |
| Total South Delta | | | 72 | 9.00% | 19,020 | \$ - | \$ - |
| Total South West | | | 40 | 5.00% | 10,567 | \$ - | \$ - |
| Grand Totals | | | <u>800</u> | <u>100.00%</u> | <u>211,336</u> | | |

The above information represents the approximate numbers of hours at each of the eight (8) regions in the state for the period beginning October 1, 2020 to September 30, 2021. MDOC does not anticipate a significant change in the ratio of guard service hours by region during the upcoming contract period. It is the intention of MDOC to receive pricing based on an hourly rate for guard service by region. MDOC will use the above matrix to objectively score each respondents pricing component. Respondents must submit pricing for at least one region, but may submit pricing for all regions. MDOC will select the lowest and best offer for each region as the primary contract. The next lowest and best offer for each region will be serves as the secondary contract for that region.

Please refer to the map on Attachment L for a map of each region.

ATTACHMENT L

North Delta

Coahoma
DeSoto
Grenada
Panola
Quitman
Tallahatchie
Tate
Tunica
Yalobusha



South Delta

Bolivar
Carroll
Holmes
Humphreys
Issaquena
Leflore
Sharkey
Sunflower
Washington



Central

Hinds
Madison
Rankin
Warren
Yazoo



Southwest

Adams
Amite
Claiborne
Copiah
Franklin
Jefferson
Jefferson Davis
Lawrence
Lincoln
Pike
Simpson
Walthall
Wilkinson



Northeast

Alcorn
Benton
Calhoun
Chickasaw
Itawamba
Lafayette
Lee
Marshall
Monroe
Pontotoc
Prentiss
Tippah
Tishomingo
Union



East Central

Attala
Choctaw
Clay
Kemper
Leake
Lowndes
Montgomery
Neshoba
Noxubee
Oktibbeha
Webster
Winston



Pinebelt

Clarke
Covington
Jasper
Jones
Lauderdale
Newton
Scott
Smith
Wayne



Coastal

Forrest
George
Greene
Hancock
Jackson
Lamar
Marion
Pearl River
Perry
Stone

